

## UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America )

v. )

Antwan Ricardo Constant )

Case No: 5:06-CR-161-2D

USM No: 15976-056

Date of Previous Judgment: October 23, 2007 )

(Use Date of Last Amended Judgment if Applicable) )

Defendant's Attorney Pro Se

**Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)**

Upon motion of the \_\_\_\_\_ defendant \_\_\_\_\_ under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and the court having considered such motion,

**IT IS ORDERED** that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_ months.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

**I. COURT DETERMINATION OF GUIDELINE RANGE** (Prior to Any Departures)

Previous Offense Level: \_\_\_\_\_ Amended Offense Level: \_\_\_\_\_

Criminal History Category: \_\_\_\_\_ Criminal History Category: \_\_\_\_\_

Previous Guideline Range: \_\_\_\_\_ to \_\_\_\_\_ months Amended Guideline Range: \_\_\_\_\_ to \_\_\_\_\_ months

**II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE**

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ Other (explain) :

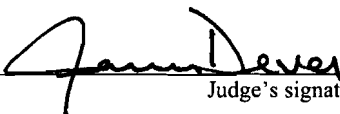
### III. ADDITIONAL COMMENTS

The court has considered the entire record. The offense level resulted from application of the career offender guideline. Therefore, the defendant is not eligible for application of the retroactive crack cocaine guideline. See, e.g., United States v. Smith, No. 09-6541, 2010 WL 2000986 (4th Cir. May 20, 2010) (per curiam) (unpublished); United States v. Munn, 595 F.3d 183, 187 (4th Cir. 2010).

Except as provided above, all provisions of the judgment dated October 23, 2007, shall remain in effect.

**IT IS SO ORDERED.**

Order Date: 6/17/10

  
\_\_\_\_\_  
Judge's signature

Effective Date: \_\_\_\_\_  
(if different from order date)

James C. Dever III, U.S. District Judge  
\_\_\_\_\_  
Printed name and title